

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act¹² and rule 19b-4(f)(6) thereunder.¹³ At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The NASD has requested that the Commission waive the 30-day operative delay. The Commission believes waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow the TAF pilot to operate without interruption through June 1, 2003. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.¹⁴

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR-NASD-2003-73 and should be submitted by May 15, 2003.

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6).

¹⁴ For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03-10102 Filed 4-23-03; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47688; File No. SR-NASD-2003-52]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Establish a Fee for Receipt of Mutual Fund Quotation Service Data by Distributors

April 17, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 24, 2003, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

Nasdaq proposes to establish a \$1,000 per month distributor fee for receipt of Nasdaq mutual fund information. The fee would be assessed on all distributors, as defined in proposed Rule 7090(e)—*i.e.*, those firms that receive the data and distribute it to third parties. Nasdaq will make the proposed rule change effective immediately upon Commission approval.

The text of the proposed rule change is below. Proposed new language is in *italics*.

Rule 7090. Mutual Fund Distributor Fee

(a)–(d) No change.

(e) *Distributors receiving MFQS shall pay a monthly fee of \$1,000. For the purposes of this subsection only, the term "distributor" shall refer to any firm that receives the MFQS data feed and distributes it to third parties. All such*

firms must execute a Nasdaq Distributor Agreement.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Nasdaq Mutual Fund Quotation Service (MFQS) collects daily Net Asset Value information from approximately 18,000 mutual funds. This data is distributed via the Nasdaq Level 1 data feed. Currently, Nasdaq does not charge for the receipt or distribution of mutual fund data.

Nasdaq states that it creates value for distributors and their subscribers by collecting and processing the mutual fund data, producing the data feed, and providing data quality services. The mutual fund data product is an important component of integrated financial information services that are provided by major market data vendors, financial web sites, and online brokerage services. Nasdaq represents that the \$1,000 per month fee will compensate it for these value-added services without discouraging wide distribution of the data.

Nasdaq is not charging recipients of the data feed who do not distribute the data to third parties. Unlike other data feeds which can be used for order routing, the MFQS data is only useful for display purposes. Those firms that only distribute it internally obtain no additional commercial advantage from resale of the data, and accordingly Nasdaq is not charging them. Thus, while the term "distributor" is used elsewhere in the NASD's rules to include a firm that receives a data feed and distributes it internally,³ in

³ See, e.g., Rule 7010(q) footnote 8. Telephone conversation between Eleni Constantine, Office General Counsel, Nasdaq and Gordon Fuller, Counsel to the Assistant Director, Division of Market Regulation, Commission, on April 14, 2003.

¹⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.